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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Fifty-Eighth Session
Geneva, October 27 and 28, 2008

UPOV-ROM PLANT VARIETY DATABASE

Document prepared by the Office of the Union

1. The purpose of this document is, firstly, to consider developments concerning the proposal for the Community Plant Variety Office (CPVO) of the European Community to take on the collation of data for the UPOV-ROM Plant Variety Database (UPOV-ROM) and, secondly, to consider the possible introduction in the UPOV-ROM of a field to indicate the dates on which a variety was commercialized for the first time in the territory of application and other territories as provided in the UPOV Model Form for the Application for Plant Breeders' Rights.

Collation of data for the UPOV-ROM Plant Variety Database

2. At its fifty-seventh session, held in Geneva on April 10, 2008, the Administrative and Legal Committee (CAJ) considered a proposal for the CPVO to take on the collation of data for the UPOV-ROM Plant Variety Database (UPOV-ROM), as set out in paragraphs 8 to 11 of document CAJ/57/6. The CAJ was informed that the Technical Committee (TC), at its forty-fourth session, held in Geneva from April 7 to 9, 2008, had agreed that that proposal and a draft revised "Memorandum of Understanding between UPOV and the CPVO" (UPOV-CPVO MoU), based on that proposal, be prepared for consideration by the Consultative Committee at its seventy-sixth session, to be held in Geneva, on October 29, 2008.

3. The CAJ agreed that the proposal made in document CAJ/57/6, paragraphs 8 to 11, and a draft revised UPOV-CPVO MoU based on that proposal, should be prepared for consideration by the CAJ at its fifty-eighth session on October 27 and 28, 2008, and by the Consultative Committee at its seventy-sixth session on October 29, 2008.

4. Subsequent to the fifty-seventh session of the CAJ, Mr. Francis Gurry, Deputy Director General (PCT and Patents, Arbitration and Mediation Center, and Global I.P. Issues) of the World Intellectual Property Organization (WIPO), and Director General-Elect of WIPO, has discussed with the Office of the Union a proposal for WIPO to take on the maintenance of the UPOV-ROM, on the basis that data in the UPOV-ROM could then be included in the WIPO Patentscope® search service.

5. Subject to the approval of the Consultative Committee, such an arrangement would be covered by the Agreement between the World Intellectual Property Organization and the International Union for the Protection of New Varieties of Plants (WIPO/UPOV Agreement) (document UPOV/INF/8), which includes the following provision:

“Article 1
“Requirements of UPOV

“(1) WIPO shall satisfy the requirements of UPOV as regards
[...]

“(x) other matters concerning which agreement is reached between WIPO and
UPOV.
[...]”

6. It is proposed that the arrangement between WIPO and UPOV would be as follows:

(a) WIPO to undertake the collation of data for the UPOV-ROM and to provide the necessary assistance to deliver the program of improvements concerning, in particular, options for receiving data for the UPOV-ROM in various formats and assistance in allocating UPOV codes to all entries (see document CAJ/57/6, paragraphs 3 and 8). In addition, WIPO to undertake the development of a web-based version of the UPOV Plant Variety Database, and the facility to create CD-ROM versions of that database, and to provide the necessary technical support concerning the development of a common search platform (see document CAJ/57/6, paragraphs 18 to 21).

(b) UPOV to agree that data in the UPOV-ROM Plant Variety Database may be included in the WIPO Patentscope® search service. In the case of data provided by parties other than members of the Union (e.g. the Organisation for Economic Co-operation and Development (OECD)), permission for the data to be used in the WIPO Patentscope® search service would be a matter for the parties concerned.

7. The details of the assistance to be provided by WIPO, as set out in paragraph 6(a), would be agreed between WIPO and the Office of the Union.

8. The current arrangements for providing data for the UPOV-ROM, as set out in the UPOV-CPVO MoU (see document CAJ/57/6, paragraph 6), would not be affected by the agreement between UPOV and WIPO.

9. The approach proposed in this document will be considered by the Consultative Committee at its seventy-sixth session, to be held in Geneva on October 29, 2008. In addition, in recognition of the importance and urgency which a number of members of the Union have attached to improvements to the UPOV-ROM, the CAJ is invited to consider the program for delivering those improvements as set out in the Annex to this document, subject to approval by the Consultative Committee of an arrangement between UPOV and WIPO, concerning the UPOV Plant Variety Database, as set out in paragraph 6 of this document.

10. In order to meet the resources required for the work set out above, WIPO would make the necessary budget proposals for consideration by the WIPO General Assembly. In the meantime, UPOV has sufficient budgetary resources under the UPOV-ROM item to fund the initial work on the program set out in the Annex to this document until early 2009.

11. The CAJ is invited to consider the program for delivering improvements to the UPOV Plant Variety Database, as set out in the Annex to this document, subject to approval by the Consultative Committee of an arrangement between UPOV and WIPO, concerning the UPOV Plant Variety Database, as set out in paragraph 6 of this document.

Dates of commercialization

12. At its forty-first session, held in Nairobi, Kenya, from June 11 to 15, 2007, the Technical Working Party for Vegetables (TWV) agreed to propose that the TC consider the introduction of a field in the UPOV-ROM Plant Variety Database to indicate the dates on which a variety was commercialized for the first time in the territory of application and other territories as provided in the UPOV Model Form for the Application for Plant Breeders' Rights (see document TGP/5: Section 2/2 Draft 1, item 8).

13. At its forty-fourth session, held in Geneva from April 7 to 9, 2008, the TC noted that the introduction of a field in the Plant Variety Database to indicate the dates on which a variety was commercialized for the first time in the territory of application and other territories as provided in the UPOV Model Form for the Application for Plant Breeders' Rights (see document TGP/5: Section 2/2 Draft 1, item 8.) was primarily a matter for the CAJ. Some delegations explained the benefits of including such information in the UPOV-ROM, whilst some delegations expressed concerns with regard to the data which would be included. It was noted that data on commercialization would, in most cases, need to be based on information provided by the applicant and the TC agreed that this aspect should be taken into account when considering such an approach. The discussions at the TC were reported by the Chair of the TC to the CAJ, at its fifty-seventh session, and the CAJ agreed that the matter should be included on the agenda for its fifty-eighth session.

14. The CAJ is invited to consider the possible introduction of a field in the UPOV-ROM Plant Variety Database to indicate the dates on which a variety was commercialized for the first time in the territory of application and other territories.

[Annex follows]

ANNEX

Program for improvements to the UPOV-ROM Plant Variety Database

(a) Investigation of (potential) contributors' needs

As a first step in the program, in November 2008, the Office of the Union will contact all members of the Union and contributors to the UPOV-ROM which do not currently provide data for the UPOV-ROM, do not provide data on a regular basis, or do not provide data with UPOV codes. In each case, they will be invited to explain the type of assistance which would enable them to provide regular and complete data for the UPOV-ROM.

(b) Provision of assistance to contributors

In response to the survey of needs, the designated WIPO staff (once in post) would start to develop solutions for each of the UPOV-ROM contributors.

(c) Development of data quality checks

At present, UPOV does not have the necessary tools to perform meaningful checks on the quality of data submitted for the UPOV-ROM. However, as a part of the arrangement with WIPO, electronic data quality checking systems would be introduced to check the submitted data before incorporation in the database. Those systems would be able to identify, for example, missing data (in mandatory fields, e.g. UPOV code), unexpected dates for a field, inconsistent formats, etc. As a first step, it would be necessary for the quality requirements to be defined. In that respect, a circular would be issued in November 2008, inviting members of the Union to indicate particular data quality requirements which they would wish to be introduced. On the basis of the responses received, the Office of the Union would prepare a proposal for consideration by the Administrative and Legal Committee (CAJ) and Technical Committee (TC) at their respective sessions in April 2009. That proposal would also present options for addressing situations where data did not meet the agreed quality standards.

(d) Frequency of data submission

In conjunction with the development of a web-based version of the UPOV Plant Variety Database (see (f) below), the CAJ and TC will be invited to consider whether to create possibilities for data to be updated on a more frequent basis.

(e) Discontinuation of inclusion of general information documents in UPOV-ROM

In order to maximize efficiency, the various general information documents which are currently provided and regularly updated in the UPOV-ROM would no longer be included, on the basis that that information is now readily available elsewhere, for example from the UPOV website and the UPOV Gazette and Newsletter. Those general information documents are as follows:

- Addresses of Plant Variety Protection Offices
- List of members of the Union
- Cover with some useful information
- UPOV: What it is, what it does (“UPOV flyer”)
- List of UPOV publications

(f) Web-based version of UPOV Plant Variety Database

At their respective sessions in April 2009, the CAJ and TC will be invited to consider a schedule for launching a web-based version of the UPOV Plant Variety Database. In conjunction with that work, it is anticipated that it will be possible to create CD-ROM versions of the UPOV Plant Variety Database without the need for the services of Jouve.

(g) Common search platform

A report on developments concerning the development of a common search platform will be made to the CAJ and TC at their respective sessions in April 2009.

[End of Annex and of document]